

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mercedes Bayon	Team: Team # 4	CCRB Case #: 201208840	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 06/29/2012 12:30 AM	Location of Incident: Throop Avenue and Jefferson Avenue; § 87(2)(b) 79th Precinct stationhouse	Precinct: 79	18 Mo. SOL 12/29/2013	EO SOL 12/29/2013	
Date/Time CV Reported Mon, 07/02/2012 4:07 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 07/09/2012 10:52 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM James Miles	02655	944810	079 PCT
2. POM Konrad Zakiewicz	13914	945127	079 PCT
3. POM Adam Dumelle	07474	948001	079 PCT
4. SGT Paul Scocca	03616	935713	079 PCT
5. An officer			079 PCT
6. Officers			079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Argelis Rodriguez	17025	944943	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Paul Scocca	Abuse: At Throop Avenue and Jefferson Avenue, in Brooklyn, Sgt. Paul Scocca supervised the stop of § 87(2)(b)	§ 87(2)(b)
B.POM Konrad Zakiewicz	Force: At Throop Avenue and Jefferson Avenue, in Brooklyn, PO Konrad Zakiewicz struck § 87(2)(b) with an asp.	§ 87(2)(b)
C.POM James Miles	Force: At § 87(2)(b) in Brooklyn, PO James Miles used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Konrad Zakiewicz	Force: At § 87(2)(b) in Brooklyn and outside of the 79th Precinct stationhouse, PO Konrad Zakiewicz used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Adam Dumelle	Force: At § 87(2)(b) in Brooklyn, PO Adam Dumelle used physical force against § 87(2)(b)	§ 87(2)(b)
F. An officer	Force: In front of 459 Jefferson Street, an officer used pepper spray against § 87(2)(b)	§ 87(2)(b)
G. Officers	Force: Outside of the 79th Precinct stationhouse, officers used physical force against § 87(2)(b)	§ 87(2)(b)
H. An officer	Discourtesy: Outside of the 79th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Case Summary

On July 2, 2012, Sgt. Paul Scocca, of the 79th Precinct, reported this incident via the telephone with the Internal Affairs Bureau (encl. 7). The CCRB received this complaint on July 9, 2012 via IAB log number 12-35386. The case was forwarded back to IAB because there was no civilian complaint. On July 16, 2012, § 87(2)(b) and § 87(2)(b) appeared at the CCRB and were interviewed as walk-ins (encl. 7a-8).

On June 29, 2012, at approximately 12:30am, § 87(2)(b) was stopped by Sgt. Paul Scocca and PO Konrad Zakiewicz in the vicinity of Throop Avenue and Jefferson Avenue, in Brooklyn. He was arrested by PO Argelis Rodriguez in front of § 87(2)(b) in Brooklyn and then taken to the 79th Precinct stationhouse. § 87(2)(b) alleged that the following allegations resulted:

- **Allegation A-Abuse of Authority-**At Throop Avenue and Jefferson Avenue in Brooklyn, Sgt. Paul Scocca supervised the stop of § 87(2)(b).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).
- **Allegation B-Force-**At Throop Avenue and Jefferson Avenue in Brooklyn, PO Konrad Zakiewicz struck § 87(2)(b) with an asp.
- **Allegation C-Force-**At § 87(2)(b) in Brooklyn, PO James Miles used physical force against § 87(2)(b).
- **Allegation D-Force-** At § 87(2)(b) in Brooklyn, and outside of the 79th Precinct stationhouse, PO Konrad Zakiewicz used physical force against § 87(2)(b).
- **Allegation E- Force-** At § 87(2)(b) in Brooklyn, PO Adam Dumelle used physical force against § 87(2)(b).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).
- **Allegation F- Force-** At § 87(2)(b) in Brooklyn, an officer used pepper spray against § 87(2)(b).
- **Allegation G-Force-** At the 79th Precinct stationhouse, officers used physical force against § 87(2)(b).
- **Allegation H- Force-** At the 79th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- *At the time of the incident,* § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Arrest Photograph: (encl. 12)

In § 87(2)(b)'s arrest photo, he has a red scratch on the right side of his face and also a red scratch near his left eyebrow near his temple. § 87(2)(b) did not appear to have any redness to his eyes.

Statement to Medical Personnel: (encl. 9)

On § 87(2)(b), § 87(2)(b) received medical treatment from § 87(2)(b). § 87(2)(b) complained of pain to his eyes, face and head as the result of NYPD detainment. He complained of burning to his eyes from being pepper sprayed.

CCRB Statement: (encl. 10-14)

On July 16, 2012, § 87(2)(b) was interviewed in-person at the CCRB. On June 29, 2012, at approximately 12:30am, § 87(2)(b) was walking down Tompkins Avenue, in Brooklyn, coming from the train station and made a right turn onto Hancock Street. § 87(2)(b) had consumed one beer earlier in the day while watching a sports game, which is where he had come from and was on his way home. § 87(2)(b) was not intoxicated or under the influence. § 87(2)(b) did not exit the train with anyone, he did not stop to speak with anyone, and he never stopped in any stores or had anything in his hands. As § 87(2)(b) was walking down Hancock Street from Tompkins Avenue towards Throop Avenue, he heard someone stated out loud, "Hey you," twice. § 87(2)(b) continued walking, but glanced behind him and observed a black male in plainclothes wearing a red shirt who stood about 5'10" tall with an average body build and black hair in his mid thirties. This officer was identified by the CCRB as PO James Miles.

PO Miles did not identify himself as an officer, but walked swiftly towards § 87(2)(b). § 87(2)(b) ran out of fear because he did not know who PO Miles was. § 87(2)(b) ran along Throop Avenue towards Jefferson Avenue. As § 87(2)(b) approached Throop Avenue, he looked behind him and did not observe PO Miles. However, he observed a white male in plainclothes wearing a gray shirt who had a stocky body build, about 5'9" tall and in his late thirties, identified by the CCRB as PO Konrad Zakiewicz. PO Zakiewicz stated, "Police! Stop." § 87(2)(b) stopped running, turned to face PO Zakiewicz, and put his hands up in the air in surrender. PO Zakiewicz approached him and immediately struck him 5-6 times in succession in his abdomen area with an asp. § 87(2)(b) did not sustain any injury from this. § 87(2)(b) then backed up away from PO Zakiewicz and ran towards his home, located at § 87(2)(b). § 87(2)(b) ran to his house, which was a few feet away. He ran up to the door and while facing the door began knocking on the door and screaming, "Mom, help me." At this time he felt unknown officers grab him by the back of his shirt and upper body (he was facing the door). The officers forcefully pulled him away from the front of his door about 5 feet and placed him on the ground. While on the ground he was kicked and punched about his body by the officers. He stated he was kicked all over, but could not specify where or how many times. He could not identify or describe which officers grabbed him, dragged him or who hit him because he was face down on the ground. He was handcuffed and then lifted from the ground to walk to an RMP. § 87(2)(b) did not know who lifted him and did not see who escorted him to the RMP. He was on the ground for 5 seconds. He did not fight, make any physical movements while on the ground and did not make any statements. He did not have any injuries from the force used to apprehend him.

When § 87(2)(b) was placed inside of the RMP, an officer who he could not describe reached in and pepper sprayed him. § 87(2)(b) stated that he was placed inside of the RMP in handcuffs and was sitting in the back for a few seconds when the unidentified officer pepper sprayed him. He was not moving or speaking and no one told him anything before he was pepper sprayed. § 87(2)(b) could not see well by this time due to the pepper spray. He was then taken to the 79th

Precinct stationhouse in the RMP. He did not see which officers drove the RMP and could not provide a description of the officers.

Once he arrived at the stationhouse, he exited the RMP on his own and was then thrown to the ground. § 87(2)(b) could not describe or identify the officers who threw him to the ground. While he was on the ground, several officers, who he could not describe or identify, punched him in the head and kicked him for about 30 seconds. He could not specify where on his head and could not specify exactly how many times, but stated that it may have been about 5 times. His hands were in handcuffs behind his back, he did not move or make any statements.

He was on the ground for about 6 seconds and then lifted up from the ground. He stated that when he fell to the ground he felt blood streaming down his face from hitting the ground face first. He was not sure where on his face he was bleeding from. He heard a male officer's voice state, "Yea bitch, get up," but he did not know who made this statement. He was then grabbed by his arms and taken inside of the stationhouse and immediately placed in a holding cell. He stated that his feet were dragging on the ground because he was not walking voluntarily. About 15 minutes after being the holding cell, he was taken to § 87(2)(b) § 87(2)(b) received approximately 8 stitches to his left eyebrow and chin. He was treated for a black eye, scars, and bruises. § 87(2)(b)

Complainant/Witness: § 87(2)(b)

- *At the time of the incident,* § 87(2)(b) was § 87(2)(b)

CCRB Statement: (encl. 15-18)

On July 16, 2012, § 87(2)(b) was interviewed in-person at the CCRB. In the early morning of June 29, 2012, § 87(2)(b) was inside of her home located at § 87(2)(b) in Brooklyn. § 87(2)(b) resides at this location with her son, § 87(2)(b). Between 12:30am and 12:40am, § 87(2)(b) heard § 87(2)(b) crying out for her help from outside of their home stating, "Mom help." § 87(2)(b) went outside of her home and observed numerous plainclothes and uniformed officers. She observed unknown officers pull § 87(2)(b) down the stairs, place him face down on the ground, and handcuff him. She could not describe the officers because her focus was on § 87(2)(b). § 87(2)(b) observed that when § 87(2)(b) was lifted from the ground, he did not have any visible injuries. Unidentified officers told § 87(2)(b) to get inside of her home and she complied.

After the officers left the area and no one was outside, § 87(2)(b) went to the 79th Precinct stationhouse. At the stationhouse, § 87(2)(b) spoke to Sgt. "Scope," who she described as a white male in plainclothes in his late thirties with short haircut/bald, 5'11" tall and stocky about 215lbs with shield number 3616. This officer has been identified by the CCRB as Sgt. Paul Scocca. Sgt. Scocca informed her that § 87(2)(b) had been arrested for drugs. § 87(2)(b) looked toward the back of the stationhouse near the holding cells and observed § 87(2)(b) being escorted out of the holding cells with bandages wrapped around his head and chin. She was informed that he would be taken to § 87(2)(b) Center. § 87(2)(b) went home and was informed by her neighbor, § 87(2)(b) that he observed § 87(2)(b) being pepper sprayed in the patrol car, and being punched in the face by PO Miles. She described PO Miles as a black male with a fade cut, red T-shirt, 6'0" tall, 190-200lbs in his early thirties. She did not witness this and it is not known how she determined it was PO Miles or how she obtained his information.

Attempts to Contact Civilians (encl. 57-61)

Between July 24, 2012 and January 14, 2013, the undersigned investigator called § 87(2)(b) five times and sent him two please call letters. On four occasions there was no answer and no voicemail engaged; however, on one occasion a detailed voicemail message was left for § 87(2)(b). None of the letters have been mailed by to the CCRB by the United States Postal Service. Because the CCRB was unable to establish contact with § 87(2)(b) a statement was not obtained.

NYPD Statement(s):

Subject Officer: PO JAMES MILES

- *At the time of the incident, PO Miles was § 87(2)(b).*
- *On June 29, 2012, PO Miles worked from 5:30pm until 2:05am, assigned to Anti-Crime in the 79th Precinct. His partners for the day were PO Zakiewicz and Sgt. Scocca. He was dressed in plainclothes and was assigned to an unmarked vehicle, 88-05.*

Memo Book: (encl. 19-22)

PO Miles' memo book entries note that at 12:35am, there was a foot pursuit at the corner of Tompkins Avenue and Hancock Street. At 12:40am, there was a possible crime regarding § 87(2)(b). At 1:35am, he was present at § 87(2)(b) Hospital.

CCRB Statement: (encl. 23-24)

On March 21, 2013, at 9:14am, PO Miles was interviewed at the CCRB. On June 29, 2012, at approximately 12:30am, PO Miles was driving an unmarked vehicle south on Tompkins Avenue when he observed a group of males congregated on the corner. He observed that the males had cups in their hands and an open Hennessey bottle in plain view. They were stopped at the corner and continued to observe the group of males from about 10 feet away. He observed § 87(2)(b) holding a clear plastic cup of brown alcohol. Because the males were drinking in public and had an open liquor bottle, PO Miles and his partners exited their vehicle to approach them. As soon as PO Miles exited the vehicle and began approaching them he smelled an odor of alcohol. PO Miles stood five feet from § 87(2)(b) during which time § 87(2)(b) took a sip from his cup. PO Miles identified himself as police and displayed his shield to § 87(2)(b) then ran off. PO Miles chased after him so that he could be arrested for being in possession of an open container of alcohol. During the foot pursuit, PO Miles twisted his knee, but continued to run after § 87(2)(b). PO Zakiewicz, who was still in the vehicle, chased him in the car. On Halsey Street, PO Zakiewicz exited the car and PO Miles got into the car. While PO Miles was driving the car in pursuit of § 87(2)(b) he could see § 87(2)(b) and PO Zakiewicz, but he never heard PO Zakiewicz give § 87(2)(b) any verbal commands. PO Miles denied that § 87(2)(b) ever stopped, put his hands up. He did not see PO Zakiewicz or any other officer strike § 87(2)(b) with their asp. PO Zakiewicz caught up with § 87(2)(b) while he was going up the stairs at § 87(2)(b). When PO Miles caught up with them, PO Zakiewicz was holding § 87(2)(b) in a bear hug around his waist. PO Miles went up the stairs as § 87(2)(b)'s family was coming down to the front door and asking what was happening. The officers identified themselves as police officers. The family tried to pull § 87(2)(b) into the house by pulling on his shirt. While PO Zakiewicz was holding § 87(2)(b) trying to pull him from his family, § 87(2)(b) kicked PO Miles in the groin causing PO Miles pain to his groin.

Additional assistance came after an unknown amount of time, but he did not recall who specifically arrived aside from PO Adam Dumelle. He did not recall any other officers assisting

in the apprehension of § 87(2)(b) aside from PO Dumelle. While the family and officers were holding § 87(2)(b) to make the arrest, everyone fell down the stairs, but he did not recall how this specifically happened. PO Zakiewicz and PO Dumelle also got hurt during the arrest, but he did not recall how they were injured or what injuries they had. PO Miles, PO Zakiewicz, and PO Dumelle immediately went back to the stationhouse and then went to the hospital. They left the scene after § 87(2)(b) was in handcuffs.

PO Miles did not see who handcuffed § 87(2)(b) and did not have any involvement in handcuffing him. § 87(2)(b) was not transported to the stationhouse in his vehicle. PO Miles denied that he pepper sprayed § 87(2)(b) and did not see who pepper sprayed him. PO Miles did not see § 87(2)(b) outside the stationhouse or go into the stationhouse. PO Miles knew that he was taken to the hospital, but he did not know why and he did not see blood or injuries on § 87(2)(b). PO Miles did not see officers use any physical force on § 87(2)(b) at the stationhouse. He was not aware of any force used against § 87(2)(b) at the stationhouse.

Subject Officer: PO KONRAD ZAKIEWICZ

- *At the time of the incident, PO Zakiewicz was § 87(2)(b)*
- *PO Zakiewicz worked with Sgt. Scocca and PO Miles. He was in plainclothes assigned to an unmarked motor vehicle. He worked from 5:30pm until 2:05am. His assignment was anti-crime.*

Memo Book: (encl. 25-27)

At 12:35am, PO Zakiewicz had a foot pursuit at the corner of Tompkins Avenue and Hancock Street. An individual, identified by the CCRB as § 87(2)(b) was arrested at § 87(2)(b). At 1:35am, PO Zakiewicz was at § 87(2)(b) Hospital.

CCRB Statement: (encl. 28-30)

On April 11, 2013, PO Zakiewicz was interviewed at the CCRB. His statement was largely consistent with that of PO Miles leading up to the stop. According to PO Zakiewicz, he exited the police vehicle, identified himself as a police officer and within seconds, PO Miles and Sgt. Scocca took off running in pursuit of § 87(2)(b).

PO Zakiewicz got back into his vehicle and drove down Halsey Street from Tompkins Avenue down to Throop Avenue. PO Zakiewicz did not have any view of § 87(2)(b), PO Miles or Sgt. Scocca until he arrived at Hancock Street and Throop Avenue. As PO Zakiewicz approached Hancock Street and Throop Avenue, § 87(2)(b) ran past the RMP PO Zakiewicz was driving in. PO Zakiewicz then jumped out of the RMP and left the keys in the ignition. PO Zakiewicz observed PO Miles running towards him at which time PO Zakiewicz picked up the pursuit on foot and PO Miles got into the RMP. PO Zakiewicz pursued § 87(2)(b) from Throop Avenue and Hancock Street until Throop Avenue and Jefferson Street all the way to his address, § 87(2)(b). At no point to § 87(2)(b) stop despite PO Zakiewicz screaming, "Stop! It's the police." PO Zakiewicz was not able to catch up to § 87(2)(b) until § 87(2)(b) reached the steps of his home. PO Zakiewicz denied that he or any officer struck § 87(2)(b) with their asp.

§ 87(2)(b) ran up the stairs in front of the house and placed his hands to hold himself in the frame of the door. § 87(2)(b) was facing the door, kicking at the door, and kicking his legs backwards at PO Zakiewicz. PO Zakiewicz placed his arms around § 87(2)(b)'s body mass to keep him from escaping. PO Zakiewicz continually told § 87(2)(b) to stop resisting. At this point individuals from inside of the location opened the door, grabbed § 87(2)(b) and tried to pull him inside. At some point, PO Miles arrived, identified himself as a police officer, and also grabbed § 87(2)(b) to keep him from escaping. During this time, § 87(2)(b) was screaming, "Mom it's the

police, they are fucking with me again” and continued kicking his legs backwards behind him. During one of the times § 87(2)(b) was kicking, he kicked PO Miles in the groin and PO Miles fell down to the ground. PO Zakiewicz was still holding § 87(2)(b) in a bear hug trying to gain control of him. PO Zakiewicz stated that during the struggle he slipped and twisted his ankle on the steps at which point he felt excruciating pain. Other units arrived and PO Zakiewicz then let go of § 87(2)(b).

PO Zakiewicz only recalled that PO Dumelle arrived and assisted in apprehending § 87(2)(b) but he did not recall what PO Dumelle specifically did. PO Zakiewicz then walked down the stairs at which point § 87(2)(b) and several other officers fell down the stairs, but he did not see how this happened. Once at the bottom of the steps, § 87(2)(b) was handcuffed. PO Zakiewicz did not engage in handcuffing § 87(2)(b) did not see who handcuffed him, and did not know how he was eventually handcuffed. PO Zakiewicz approached PO Miles who was on the ground in pain from being kicked in the groin. They briefly spoke and then left the location. He denied that he or any officer ever punched or kicked § 87(2)(b) while he was on the ground. He did not have any further contact with § 87(2)(b). He did not see who removed him into a vehicle and did not know whose vehicle he was placed in. He did not see him being placed inside of an RMP. He denied that he or any officer pepper sprayed § 87(2)(b). He was not aware of § 87(2)(b) ever being pepper sprayed during the incident. PO Zakiewicz and PO Miles went back to their RMP and drove back to the stationhouse. Upon arriving at the stationhouse, an ambulance was called for PO Miles and PO Zakiewicz. PO Zakiewicz did not see § 87(2)(b) being taken into the stationhouse and did not see him again at the stationhouse. He did not hear any officers use profanity towards him and was not aware of any physical force used against him at the stationhouse. He was not aware of any injuries § 87(2)(b) sustained.

Subject Officer: SGT PAUL SCOCCA

- *At the time of the incident, Sgt. Scocca was § 87(2)(b).*
- *Sgt. Scocca worked with PO Miles and PO Zakiewicz. He was the anti-crime supervisor. He worked in plainclothes in an unmarked vehicle. He worked from 5:26pm until 2:10pm hours.*

Memo Book: (encl. 31-33)

At 12:30am, Sgt. Scocca observed a drug transaction and a gun at the corner of Hasley and Tompkins. It noted that “upon stop, PO Miles engaged in a foot pursuit. I ran as well after the 6’0” tall, 220 pound male black wearing black shirt with a silver design on the back. I lost both of them at the corner of Hasley Street and Throop Avenue.” At 12:42am, PO Rodriguez had an arrest. At 12:50am, Sgt. Scocca was back at the stationhouse processing the arrest of an individual identified by the CCRB as § 87(2)(b). At 1:15am, Sgt. Scocca spoke with § 87(2)(b) s mother, who was very irate. Sgt. Scocca took § 87(2)(b) into another room to explain to her what had happened as far as he knew. § 87(2)(b) told Sgt. Scocca that she did not like how he was speaking to her to which he replied, “Ma’am, I am speaking to you calmly and explaining things to you the best I can.” Sgt. Scocca advised her that § 87(2)(b) had already gone to the hospital. § 87(2)(b) took Sgt. Scocca’s name and shield number and the telephone number to CCRB. Sgt. Scocca provided her with the cover sheet to the complaint report. At 1:46am Sgt. Scocca made entry in command log in regards to his conversation with § 87(2)(b) and at 2:10am he prepared line of duty paper work.

CCRB Statement: (encl. 34-36)

On April 11, 2013, Sgt. Paul Scocca was interviewed at the CCRB. Sgt. Scocca’s CCRB statement is consistent with that of PO Miles and PO Zakiewicz. His interview is summarized

below with any inconsistencies noted. On June 29, 2012, at approximately 12:30am, Sgt. Scocca, PO Miles, and PO Zakiewicz were inside of an unmarked vehicle at the intersection of Halsey Street and Tompkins Avenue. Sgt. Scocca stated that there is an afterhours social club at this intersection, which is known for shootings and drugs. While at the corner, they observed a group of approximately 5-6 males, one of which was § 87(2)(b) hanging out outside of the social club. § 87(2)(b) was standing with the group of males for their entirety of their observation.

Sgt. Scocca observed the males drinking liquor. § 87(2)(b) was specifically observed drinking Hennessy from a plastic cup. There was an open bottle of Hennessy liquor on the ground and the males were pouring the liquor into their cups. Additionally, some of the males appeared to be engaging in what Sgt. Scocca believed to be “hand to hand” drug transactions. During the time they observed this group of males, he observed § 87(2)(b) remove what appeared to be the butt of handle of a gun out from the left side of his body. § 87(2)(b)'s body was facing towards the street when he made this gesture and removed something from the left side of his body. When he removed the object from the left side of his body the other males gathered around. After Sgt. Scocca made the firearm observation, a minivan that was driving down the block interfered with Sgt. Scocca's view for about a minute while the traffic light signals turned from red to green; the officers view was never obstructed prior to this van arriving. Sgt. Scocca told PO Miles and PO Zakiewicz, “Okay that kid just pulled out a gun.” When the minivan pulled away, the officers pulled up in their vehicle between two parked cars. Sgt. Scocca and PO Miles exited the vehicle and approached the group of males. He did not recall if PO Zakiewicz also exited his vehicle, but later stated that PO Zakiewicz stayed in the car when he and PO Miles exited.

Within seconds of them approaching the males, § 87(2)(b) took off running. PO Miles began running after § 87(2)(b). The other four males ran in the opposite direction down Tompkins Avenue. Sgt. Scocca then proceeded to run in the direction § 87(2)(b) and PO Miles ran because he did not want PO Miles to chase after an individual alone for safety purposes. As Sgt. Scocca was in pursuit, he observed § 87(2)(b) take something from what appeared to be his waist area and throw it into a courtyard. There were a bunch of other “kids” in the courtyard, who picked up the object and ran inside of the building. Sgt. Scocca did not put any calls over the radio in regards to this, and did not go after the individuals who ran. Sgt. Scocca continued in pursuit of § 87(2)(b) and PO Miles. Sgt. Scocca was not aware if PO Zakiewicz was pursuing in their vehicle and did not know if PO Miles was injured while running or if PO Miles and PO Zakiewicz switched roles meaning PO Zakiewicz continued the foot pursuit and PO Miles got into the vehicle. Sgt. Scocca never caught up to § 87(2)(b) or struck him with an asp. He denied seeing PO Zakiewicz in pursuit and did not see PO Zakiewicz strike § 87(2)(b) with an asp.

When Sgt. Scocca arrived at Jefferson Avenue, he observed numerous police vehicles, PO Miles on the ground, § 87(2)(b) in handcuffs being placed in an RMP, and civilians in the street yelling. He described that PO Miles was on the sidewalk outside of § 87(2)(b)'s home. PO Miles was doubled over holding his groin area, because he had been kicked in the groin by § 87(2)(b) but Sgt. Scocca himself did not observe this. He saw that § 87(2)(b) was being placed in the RMP by unknown officers. One of the officers opened the other side of the RMP and had to pull § 87(2)(b) into the vehicle because § 87(2)(b) was kicking his legs to prevent being placed inside, but Sgt. Scocca did not know the identities of any of these officers and did not recall any other details of how he was taken into the RMP. Once § 87(2)(b) was inside of the vehicle, he was transported to the stationhouse. Sgt. Scocca did not see any officer pepper spray § 87(2)(b) denied that he pepper sprayed him, and did not recall being informed that § 87(2)(b) had been pepper sprayed. Sgt. Scocca never observed any officers kick or punch § 87(2)(b) did not observe him on the ground, and denied any involvement in the physical aspect of his arrest. After § 87(2)(b) was removed from the scene, Sgt. Scocca went back to the stationhouse.

When Sgt. Scocca arrived at the stationhouse, § 87(2)(b) was already present inside of the stationhouse and EMS had already been called for § 87(2)(b). Also present at the stationhouse was § 87(2)(b). Sgt. Scocca did not see who brought § 87(2)(b) inside of the stationhouse. He did not see any officers use any physical force against § 87(2)(b) at the stationhouse or hear any officers use profanity towards him. § 87(2)(b) was then taken to the hospital, but he did not know what injuries he had or what he was being treated for. He did not have any interaction with § 87(2)(b) at the stationhouse.

Subject Officer: PO ADAM DUMELLE

- *At the time of the incident, PO Dumelle was § 87(2)(b).*
- *PO Dumelle was assigned to conditions with Sgt. Famighetti. They were in uniform in an unmarked RMP. He worked from 5:30pm until 2:05am.*

Memo Book: (encl. 37-38)

At 12:35am PO Dumelle received a call for back-up at 559 Jefferson Avenue. He noted in his memo book that the perpetrator, identified by the CCRB as § 87(2)(b) attempted to run inside and was fighting, and resisting. He also noted that § 87(2)(b) kicked PO Miles, fell down the stairs with him, and that § 87(2)(b) resisted arrest.

CCRB Statement: (encl. 39-40)

On April 11, 2013, PO Dumelle was interviewed at the CCRB. On June 29, 2012, at approximately 12:35am, PO Dumelle received a radio run regarding officers needing assistance at § 87(2)(b). PO Dumelle did not recall any other details provided over the radio call. When he arrived at the location, he observed PO Miles and PO Zakiewicz struggling with § 87(2)(b) at the top of the stairs of the aforementioned building. § 87(2)(b)'s family members were pulling § 87(2)(b) inside while PO Miles and PO Zakiewicz were holding him, trying to keep him outside. PO Dumelle exited his vehicle and went up the stairs. Sgt. Famighetti stayed on the sidewalk. As he was approaching, he observed PO Miles drop to the ground because § 87(2)(b) kicked him in the groin. PO Zakiewicz still had a hold of § 87(2)(b) and § 87(2)(b)'s family was trying to pull him inside of his home. § 87(2)(b)'s back was towards his home and he was facing outward toward the street. PO Dumelle told § 87(2)(b) to stop resisting, but he did not comply. PO Zakiewicz and PO Dumelle tried to overcome § 87(2)(b)'s resistance by pulling him to stay outside of his home.

PO Zakiewicz was trying to break the tie between § 87(2)(b) and his family by trying to stand between them and pull § 87(2)(b) away from his family's grasp. PO Dumelle was pulling § 87(2)(b) to remain outside. He described it like a tug-of-war. § 87(2)(b) himself was punching, kicking and moving around to get free of the officers grasp. PO Dumelle stated that in order to try to overcome § 87(2)(b)'s physical resistance, he did grab § 87(2)(b) by his shoulders and strike § 87(2)(b) three times in the stomach with his knee. During this struggle with § 87(2)(b) PO Dumelle, and § 87(2)(b) fell down the stairs. PO Dumelle did not recall what led them to fall down the stairs. PO Dumelle fell on top of § 87(2)(b) at the foot of the staircase. Once on the ground, PO Dumelle rolled § 87(2)(b) onto his stomach and tried to get § 87(2)(b)'s arms behind his back by pulling his arms behind his back. While on the ground § 87(2)(b) was flailing his arms around and moving his body around to stop the officers from being able to handcuff him, but he and PO Zakiewicz were able to pull his arms behind his back and handcuff him. He did not punch or kick § 87(2)(b) and he did not see any officers do this either. It took about 30 seconds to place § 87(2)(b) in handcuffs. PO Dumelle stated that a lot of officers ended up responding to the location, but he did not know who they were and did not know what they did. Once § 87(2)(b)

was in handcuffs, PO Dumelle did not have any additional contact with him. He denied that he pepper sprayed him and did not see any other officer pepper spray him.

After § 87(2)(b) was in handcuffs, PO Dumelle felt pain to his wrist and went to Sgt. Famighetti who was near their police vehicle. PO Dumelle asked Sgt. Famighetti if he could go to the hospital because he injured his wrist at some point during the incident. They went back to the stationhouse, PO Dumelle changed out of his uniform and went to § 87(2)(b) Hospital. He did not see § 87(2)(b) being brought into the stationhouse and did not see any physical force be used against him at the stationhouse. PO Dumelle did not have any knowledge of what occurred prior to him arriving at the scene. He did not know if § 87(2)(b) had any injuries as a result of this incident.

Witness Officer: PO ARGELIS RODRIGUEZ

- *At the time of the incident, PO Rodriguez was § 87(2)(b).*
- *PO Rodriguez worked from 5:30pm until 2:05am. He was assigned to anti-crime with PO Austin. He was in plainclothes assigned to an unmarked vehicle.*

Complaint Report and Arrest Report: (encl. 41-44)

PO Rodriguez prepared a complaint report and an arrest report for § 87(2)(b) with the following narrative, “At the time and place of occurrence, the arresting officer was informed by PO Miles, shield number 2655, that he observed the defendant with an open container in public view. When PO Miles attempted to stop the defendant, the defendant proceeded to flee. A struggle ensued, in which the defendant did kick PO Miles in the groin. Defendant also did push another officer from the stairs in an attempt to escape. Search incident to lawful arrest recovered one bag of marijuana.” § 87(2)(b) was charged with assault, obstruction of government administration, a local misdemeanor, and possession of marijuana.

Memo Book: (encl. 45-47)

At 12:40pm, PO Rodriguez was informed by PO Miles that the defendant, identified by the CCRB as § 87(2)(b) kicked PO Miles in the groin. He noted that § 87(2)(b) pushed PO Zakiewicz down the stairs and that while the officers were trying to apprehend § 87(2)(b) PO Dumelle suffered injury to his hand. PO Rodriguez noted that at 12:45am, § 87(2)(b) was present at the stationhouse.

CCRB Statement: (encl. 48-49)

PO Rodriguez was interviewed at the CCRB on March 21, 2013. On June 29, 2012, at approximately 12:40am, PO Miles made a radio request for back-up. PO Rodriguez did not recall all of the information PO Miles provided over the radio run, but stated that PO Miles told them that he was in pursuit of an individual, identified as § 87(2)(b) and provided them with the direction in which he was headed. PO Rodriguez drove to the location. PO Rodriguez stated that he and PO Austin were the last officers to arrive after the incident was completed.

When PO Rodriguez arrived, § 87(2)(b) was already in handcuffs and was being placed in a marked RMP. He did not recall who was interacting with § 87(2)(b) at this time or whose RMP he was placed inside of. PO Rodriguez did not interact with § 87(2)(b) at the incident location and never saw any officers use physical force against him or pepper spray him. He did not see if any officers were interacting with § 87(2)(b) while § 87(2)(b) was inside of the RMP. PO Rodriguez did not see any injuries on § 87(2)(b) nor did § 87(2)(b) complain about any injuries or complain about being pepper sprayed at any time. He did not recall if § 87(2)(b) was pepper

sprayed. After § 87(2)(b) was in an RMP, PO Rodriguez went back to the stationhouse for arrest processing.

PO Rodriguez arrived a few minutes after § 87(2)(b). He did not see when § 87(2)(b) arrived. He did not see any officer punch or kick § 87(2)(b). § 87(2)(b) never observed him on the ground, and never heard any officers use profanity towards him or state, “Yea bitch get up.” When PO Rodriguez arrived at the stationhouse, § 87(2)(b) was in the holding cells. PO Rodriguez approached and searched § 87(2)(b). He recovered a bag of marijuana from § 87(2)(b)’s pocket. During the search, PO Rodriguez observed that § 87(2)(b) had a few lacerations though he did not say where. PO Rodriguez did not speak with any of § 87(2)(b)’s family members at neither the location of arrest or at the stationhouse. After PO Rodriguez searched § 87(2)(b) he went to speak with PO Miles about what happened leading to § 87(2)(b)’s arrest. During this time, other officers that he could not identify transported § 87(2)(b) to the hospital. PO Rodriguez did not know why § 87(2)(b) was taken to the stationhouse.

Medical Records

§ 87(2)(b) **Center** (encl. 50-51)

On § 87(2)(b), at approximately 1:57am, § 87(2)(b) was treated at § 87(2)(b) Hospital. § 87(2)(b) had a laceration to the side of his left eyebrow with minimal bleeding. He also had a laceration on his chin and an abrasion on his right cheek. He had redness and tearing to his eyes with discomfort noted. § 87(2)(b) was prescribed Keflex and Ibuprofen. Keflex is an antibacterial used to treat infections and Ibuprofen is used to treat minor aches and pains. He received 4 stitches to his chin and 3 stitches to his eyebrow. There is no note about whether he was treated for pepper spray to his eyes.

NYPD Document(s)

NYPD SPRINT (encl. 52-53)

According to the NYPD SPRINT, back-up was called by anti-crime officers to respond in the vicinity of Jefferson Avenue between Bedford Avenue and Franklin Avenue. Anti-crime called over the radio regarding a foot pursuit. One individual was arrested by 79th Precinct anti-crime.

Roll Call (encl. 54-55)

Sgt. Scocca was the anti-crime supervisor assigned to vehicle number 1080. PO Miles and PO Zakiewicz were assigned to anti-crime in vehicle number 1080. PO Rodriguez was assigned to anti-crime in vehicle number 8071. PO Dumelle was assigned to conditions in vehicle number 8828.

Command Log and Vouchers (encl. 62 and 66)

The command log and vouchers were requested from the 79th Precinct; however, the requests returned stating that the command was unable to locate the documents.

§ 87(2)(b)

Status of Civil Proceedings

- A Notice of Claim inquiry has been requested and will be included in the case file upon receipt.

Civilian(s) Criminal History

- As of May 1, 2013, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) or § 87(2)(b)

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. 5-6).

Subject Officer(s) CCRB History

- PO James Miles has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (encl. 1).
- PO Konrad Zakiewicz has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (encl. 2).
- PO Adam Dumelle has been a member of the service for 4 years and has the following substantiated CCRB allegations against him (encl. 3):
 - In CCRB 201011266, a stop and a frisk allegation were substantiated against him. The CCRB recommended command discipline and the NYPD disposition was instructions.
- Sgt. Paul Scocca has been a member of service for 8 years and has the following substantiated CCRB allegations against him (encl. 4):
 - In CCRB 201002346, a vehicle search, discourtesy, frisk and search of person allegation were substantiated against him. The CCRB recommended charges and the NYPD imposed Command Discipline B.
 - In CCRB 201206099, a stop allegation was substantiated against him. The CCRB recommended charges. There is no NYPD disposition available for this case.

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) alleged that a white male officer in plainclothes identified himself as a police officer, directed him to stop, and then hit him with his asp. PO Zakiewicz was a white male wearing plainclothes and acknowledged that he did pursue § 87(2)(b) on foot, told him to stop, and continued to pursue him to his residence. Therefore, a force allegation has been pleaded against PO Zakiewicz. Because Sgt. Scocca was the supervisor on the scene, the stop of § 87(2)(b) has been pleaded against him.

§ 87(2)(b) alleged that when he reached § 87(2)(b) officers grabbed him, pulled him, placed him on the ground and also kicked and punched him in front of his home. PO Dumelle, PO Zakiewicz, and PO Miles acknowledged using force against him in front of his home to apprehend him. Therefore, physical force allegations have been pleaded against them.

§ 87(2)(b) alleged that while he was inside of an RMP an unknown officer pepper sprayed him. Additionally, he alleged that unknown officers used force against him in front of the stationhouse and that an unknown officer used profanity. § 87(2)(b) was unable to identify or describe these officers. None of the officers acknowledged engaging in the above misconduct or observing any officers do so. In light of the above, the CCRB was unable to identify these officers. Therefore a pepper spray allegation and discourtesy allegation have been pleaded against “An officer” from the 79th Precinct and a physical force allegation has been pleaded against “Officers” from the 79th Precinct.

Investigative Findings and Recommendations

Allegation A-Abuse of Authority-At Throop Avenue and Jefferson Avenue, in Brooklyn, Sgt. Paul Scocca supervised the stop of § 87(2)(b)

According to § 87(2)(b)'s testimony, he was walking alone from the train to his home. He was not with any other individuals, did not stop to speak with anyone, and did not have anything in his hands. He alleged that PO Miles said "Hey you," but § 87(2)(b) took off running because he did not know he was a police officer. At some point § 87(2)(b) no longer observed PO Miles behind him, but observed PO Zakiewicz pursuing him. PO Zakiewicz identified himself as a police officer, directed § 87(2)(b) to stop and § 87(2)(b) complied. On the contrary, PO Zakiewicz, PO Miles, and Sgt. Scocca testified that they observed § 87(2)(b) with a group of males who were drinking Hennessy liquor from plastic cups. Sgt. Scocca testified that he observed several of the males from the group engage in hand-to-hand drug transactions and that § 87(2)(b) displayed what he perceived to be a firearm. However, PO Miles and PO Zakiewicz made no such testimony about their observations. According to PO Miles, PO Zakiewicz and Sgt. Scocca, these observations led them to approach the group of males shortly after which § 87(2)(b) ran and they pursued him.

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b).
§ 87(2)(b).

Allegation B-Force-At Throop Avenue and Jefferson Avenue, in Brooklyn, PO Konrad Zakiewicz struck § 87(2)(b) with an asp.

§ 87(2)(b) alleged that when he complied with PO Zakiewicz's directions to stop running, PO Zakiewicz approached him and immediately struck him 5-6 times in the abdomen area with his asp. § 87(2)(b) then backed away from PO Zakiewicz and ran to his home. PO Zakiewicz testified that he pursued § 87(2)(b) on foot, but stated § 87(2)(b) did not stop. PO Zakiewicz denied that he struck § 87(2)(b) with his asp, which PO Miles corroborated. PO Miles testified that while he pursued in the vehicle he did not observe PO Zakiewicz catch up to § 87(2)(b) by himself or strike him with his asp. According to PO Miles and PO Zakiewicz, they did not catch up to § 87(2)(b) until the point that § 87(2)(b) was at the front foor of § 87(2)(b). § 87(2)(b) did not allege any injuries from being struck with an asp and his medical records do not document any injuries sustained to his abdomen. § 87(2)(b) did not inform medical personnel that he had been struck in the abdomen with an asp. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation F- Force- In front of 459 Jefferson Street, an officer used pepper spray against

§ 87(2)(b)

After § 87(2)(b) was handcuffed and placed in an RMP, an officer who he could not describe reached in and pepper sprayed him. § 87(2)(b) stated that he was placed inside of the RMP in handcuffs and was sitting in the back for a few seconds when the unidentified officer pepper sprayed him. He was not moving or speaking and no one told him anything before they pepper sprayed him. As a result of being pepper sprayed, § 87(2)(b) could not see well.

Sgt. Scocca, PO Miles, PO Zakiewicz, and PO Dumelle denied that they pepper sprayed § 87(2)(b) or observed any one pepper spray him. All officer testimony reflected that none of the officers were aware if § 87(2)(b) was ever pepper sprayed during the incident. According to § 87(2)(b)'s medical records, he informed medical personnel that he had burning to his eye because he was pepper sprayed and it was noted that he had redness and tearing to his eyes, but it was not documented that he was treated for being pepper sprayed or that they definitively determined he had been pepper sprayed.

§ 87(2)(g)

Allegation G-Force- Outside of the 79th Precinct stationhouse, officers used physical force against

§ 87(2)(b)

Allegation H- Force- Outside of the 79th Precinct stationhouse, an officer spoke discourteously to

§ 87(2)(b)

After § 87(2)(b) was placed in the RMP, he was then taken to the stationhouse. He did not see which officers drove the RMP and could not provide a description of the officers. Once he arrived at the stationhouse, he exited the RMP on his own and was then thrown to the ground. Officers he could not describe or identify pushed him to the ground from behind and he fell face first. Several officers punched him in the head and kicked him for about 30 seconds. He was on the ground for about 6 seconds and then lifted up from the ground. He stated that when he fell to the ground he felt blood streaming down his face from hitting the ground face first. He heard a male officer's voice state, "Yea bitch, get up." He did not see who did what, could not describe these officers, did not know who made the above statement, and could not approximate how many officers were involved.

According to all officer testimony, none of them engaged in the above allegations or observed any other officer engage in the above. PO Rodriguez stated that he arrived at the end of the incident and did not interact with § 87(2)(b). § 87(2)(b) did not transport him to the stationhouse or see him being brought into the stationhouse. Sgt. Scocca, PO Miles, PO Zakiewicz and PO Dumelle stated that they did not see whose RMP § 87(2)(b) was placed inside of or who transported him to the stationhouse. They did not see him being brought into the stationhouse and denied any involvement in bringing him to the stationhouse.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date